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October 3, 2003

RECEIVED

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington D.C. 20554

OCT - 3 2003

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

RE: WC Docket No. 02-215; Applications of WorldCom, Inc. (debtor-in-Possession d/b/a MCI, Inc. and Certain of its Subsidiaries for Authorization to Assign and/or Transfer Control Licenses and Authorizations

Dear Ms. Dortch:

Pursuant to a request by Staff of the Wireless Telecommunications Bureau, please find enclosed SBC's Request for Permission to Withdraw an Opposition Not Asserted. Commission Staff specifically requested that SBC submit a copy of SBC's Settlement Agreement with WorldCom, Inc. ("WorldCom") from the WorldCom litigation in the United States Bankruptcy Court Southern District of New York. That agreement settles a variety of disputes concerning payments owed by WorldCom to SBC. SBC's filing is being made voluntarily, in the spirit of cooperation. SBC disagrees that its filing is in any way required by 47 C.F.R. § 1.935.

In particular, SBC disagrees that § 1.935 requires SBC to file its Settlement Agreement in the WorldCom bankruptcy proceeding or requires the Commission to approve SBC's Settlement Agreement. SBC disagrees that it has made any "threat to deny" WorldCom's wireless applications in this docket (WC Docket No. 02-215) or otherwise triggered the application of Rule 1.935.¹ SBC has made no filings or even appeared in any way in this docket. Nor do any other statements made by SBC constitute an opposition to or a threat to deny any of WorldCom's wireless applications in this docket.

In particular, SBC's statements in RM-10613 in support of the Petition for Rulemaking filed by the United Church of Christ do not trigger § 1.935. In its Statement filed in that docket, SBC urged the Commission to initiate a full investigation of

¹ Rule 1.935 is limited in scope to oppositions to wireless applications.

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WorldCom's misconduct. SBC also reminded the Commission that it has "a grave statutory responsibility to determine whether permitting WorldCom to retain its licenses is in the public interest" Nothing in those statements in that docket, however, could reasonably be construed as a "threat" by SBC to oppose WorldCom's wireless applications in this docket. Similarly, SBC's statement in RM-10613 that the Commission "owes no deference to the bankruptcy court in deciding, after a full investigation, whether revocation of WorldCom's licenses or some other appropriate sanction will best serve the public interest," is not a threat to oppose WorldCom's wireless applications in this docket. Indeed, SBC's statement specifically refers to an investigation *by the Commission*, rather than any action by SBC. In short, SBC made no statements in RM-10613 that could constitute a threat that SBC would oppose WorldCom's wireless applications in this docket, and Rule 1.935 is in no way triggered by any statements made by SBC in RM-10613.²

Moreover, the structure of the rule, and the usual manner in which it has been applied by the Wireless Telecommunications Bureau, confirm that the rule does not apply to this situation. The introduction to the rule mentions generally the requirement of Commission approval for parties that have "filed or threatened to file a petition to deny . . . and then seek to withdraw or request dismissal of, or refrain from filing the petition." However, the actual requirement of the rule, set forth in 1.935(a), requires a party to submit to the Commission a "request for approval of the withdrawal or dismissal." Since SBC has never before made any filings in this docket, it has no need to seek any withdraw or dismissal of any such pleadings. Clearly, the rule is intended to cover the situation in which a party actually opposes a wireless application—through an actual filing—and then seeks to withdraw that opposition.

SBC has found no reported instance in which the rule was invoked to cover a situation in which a party never filed an opposition in the first place. Specifically, SBC has found no instance in which a party was required under the rule to seek permission from the Commission for "refraining" from filing an opposition. Indeed, the absurdity of having to file a request for permission not to file indicates the irrational nature of the Staff's interpretation of the rule.

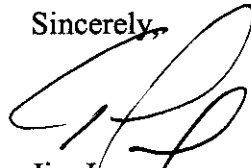
SBC firmly believes that Staff's request represents an overly broad interpretation of the rule. After all, as written, it would even cover a unilateral decision by a party not to file comments in a particular proceeding, despite a previous "threat" to do so. Particularly if the Commission's construction of the term "threat" is as open-ended as Staff's request may suggest, SBC believes the provision would be very vulnerable to legal challenge.

² Moreover, while SBC officials have stated their outrage at WorldCom's fraudulent actions, SBC is unaware of any public statements made by any SBC official—and Staff has offered none—to the effect that SBC would oppose WorldCom's wireless applications in this docket.

For all the foregoing reasons, SBC disagrees that Rule 1.935 in any way requires SBC to seek any approval from the Commission or to submit to the Commission a copy of any agreements between WorldCom and SBC. SBC's filing is being made voluntarily, in the spirit of cooperation. SBC is submitting with its filing a request, pursuant to the Commission's rules and the Freedom of Information Act, for confidential treatment of the information contained in SBC's submission.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'JL' or 'Jim Lamoureux', written over a horizontal line.

Jim Lamoureux
Senior Counsel
SBC Communications, Inc.

Before the
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

WC Docket No. 02 215

REQUEST FOR APPROVAL TO WITHDRAW AN OPPOSITION NOT ASSERTED

At the request of the Staff of the Commercial Wireless Division, SBC Communications, Inc., ("SBC") hereby requests Commission approval to withdraw an opposition not asserted by SBC to WorldCom's wireless applications in this proceeding. In support of this Request, attached is the Declaration of John H. Atterbury.

Respectfully submitted,


Jim Lamoureux

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